

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 17

August 4, 2004

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON AUGUST 3, 2004

**SUBJECT: COMPLAINANT ADVISORY, FORM 1.28.10 - ACTIVATED, AND
COMPLAINT FORM, FORM 1.28.0 - REVISED**

PURPOSE: California Law provides members of the public the right to make complaints against Department personnel when they believe an officer's conduct to be inappropriate, including those instances where there is insufficient evidence that misconduct has occurred. This right is an important factor in gaining and continually maintaining the public's trust and confidence in law enforcement, and the Department is committed to the acceptance, thorough and proper investigation and fair adjudication of all such complaints. As such, Department Policy requires that Department employees shall accept, document and investigate all personnel complaints.

California Penal Code (PC) Section 148.6 requires that complainants read and sign an advisory regarding their right to file a complaint against a police officer, as well as certain information regarding complaint procedures. Additionally, this advisory also makes members of the public aware that when they knowingly make a false complaint against a sworn Department employee, the person doing so can be subject to criminal liability. In order to comply with the provisions of 148.6 PC, this Order activates the Complainant Advisory, Form 1.28.10, and revises the Complaint Form, Form 1.28.0.

PROCEDURE:

- I. COMPLAINANT ADVISORY, FORM 1.28.10.** The Complainant Advisory, Form 1.28.10, is activated.
 - A. Use of Form.** This form is used in conjunction with a complaint investigation to advise a complainant of the provisions of California Penal Code Section 148.6.
 - B. Completion.** The Complainant Advisory, Form 1.28.10 (Attachment 1), shall be completed for each complainant filing a formal complaint against a sworn Department employee.
 - C. Distribution.**

1 - Original to Internal Affairs Group (attached to

the Complaint Form, Form 1.28.0).

1 - Copy to complainant.

2 - TOTAL

II. COMPLAINT FORM, FORM 1.28.0 - REVISED

The Complaint Form, Form 1.28.0 (Attachment 2), has been revised to include a check box used to indicate that the 148.6 PC advisory was given to the complainant. Use and distribution of this form have not changed.

III. SUPERVISOR'S RESPONSIBILITY. In accordance with Special Order No. 1, 2003, the Department will accept, document and investigate all public complaints. When conducting a preliminary investigation of alleged misconduct, the interviewing supervisor shall:

- * Obtain a preliminary statement of the alleged misconduct from the complainant;
- * Require the complainant to read the Complainant Advisory, Form 1.28.10;
- * Ensure that the complainant understands the elements of 148.6 PC;
- * If the complainant is unable to read the Complainant Advisory, Form 1.28.10, it shall be read to him/her verbatim;
- * Ensure that the complainant understands his/her rights and obligations in the Complainant Advisory, Form 1.28.10;

Note: This advisory shall not be presented in a way meant to dissuade any citizen from making or retracting a complaint. Personnel are reminded to maintain a professional demeanor at all times. Supervisors are encouraged to tape-record the advisement when feasible.

- * Request that the complainant sign the Complainant Advisory, Form 1.28.10, on the "Complainant (Signature)" line indicating that the complainant understands his/her rights and obligations under the law;
- * Write "refused" on the "Complainant (Signature)" line if the complainant refuses to sign the form;
- * Sign the form on the "Interviewing Supervisor" line; and,

- * Complete a Complaint Form, Form 1.28.0, as directed in Special Order No. 1, 2003.

Note: The Complainant Advisory, Form 1.28.10, is not required when the complaint is Department initiated (i.e., Failure to Appear, Failure to Qualify, Preventable Traffic Collision). However, if the complainant is a Department employee, the Complainant Advisory Form, 128.10, is required.

When a complaint is received by other means (i.e., letter, e-mail, etc.,) the Complainant Advisory, Form 1.28.10, shall be completed upon the initial preliminary interview. When the complaint is received telephonically, the interviewing supervisor shall:

- * Conduct the interview with the complainant telephonically;
- * Read the Complainant Advisory, Form 1.28.10, verbatim to the complainant and explain to him/her the provisions of 148.6 PC;

Note: Supervisors are encouraged to tape-record the advisement when feasible.

- * Sign the Complainant Advisory, Form 1.28.10, on the "Investigating Supervisor" line;
- * Print the complainant's name, if known, or "Anonymous" if unknown, on the "Complainant (Print Name)" line;
- * Write "Telephonic" in place of the complainant's signature on the "Complainant (Signature)" line; and,
- * Mail a copy of the completed Complainant Advisory, Form 1.28.10, to the complainant if their address is known.

IV. WATCH COMMANDER/OIC'S RESPONSIBILITY. In addition to ensuring that all allegation(s) of misconduct are thoroughly investigated in accordance with Special Order No. 1, 2003, the watch commander/OIC shall:

- * Review all Complaint Form(s), Form 1.28.0, and ensure that the Complainant Advisory, Form 1.28.10, has been given; and,
- * Ensure that the check box on Complaint Form, Form 1.28.0, used to indicate receipt of a completed Complainant Advisory, Form 1.28.10, has been checked by the investigating supervisor.

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FORM AVAILABILTY: The Complainant Advisory, Form 1.28.10, and the revised Complaint Form, Form 1.28.0, will be available for ordering from the Department of General Services, Distribution Center, in approximately 90 days, and will be placed on the Local Area Network (LAN). Copies of the form, in English and Spanish, are attached for duplication and immediate use. Versions in other most commonly used languages will be made available for use. Other versions or self-improvised versions of this form shall not be used.

Note: Until the revised Complaint Form, Form 1.28.0, is available from the Distribution Center or on the LAN, supervisors may duplicate and use the attached copy, or use the old form by indicating on the lower left margin "Complaint Advisory Form Completed and Attached."

AMENDMENTS: This Order amends Sections 3/815.10, 5/128.0, and adds Section 5/1.28.10, to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Professional Standards Bureau, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.

WILLIAM J. BRATTON
Chief of Police

Attachments

DISTRIBUTION "A"